

PATENT APPLICATION
CS-8455/LeA 36,006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION OF)	
REINER FISCHER ET AL)	
SERIAL NUMBER: 10/525,920)	PCT/EP2003/009103
FILED: February 25, 2005)	
TITLE: SUBSTITUTED SPIROCYCLIC)	
KETOENOLS)	

RECEIVED
10 JAN 2007
Legal Staff
International Division

DECLARATION

Mail Stop PCT
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to your Decision on Request Under 37 CFR 1.42, dated August 21, 2006, please be advised that to the best of my knowledge, Angelika Lubos-Erdelen is the sole heir to Christoph Erdelen.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450, on

10/10/06

Date

Richard E. L. Henderson, Reg. No. 31,619

Name of applicant, assignee or Registered Representative

Richard E. L. Henderson

Signature

October 10, 2006

Date

If there is any fee connected to the filing of this Declaration, please charge it to Deposit Account Number 50-2510.

Applicants request that the file be forwarded for examination.

Respectfully submitted,

By Richard E.L. Henderson
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Attorney for Applicants
Reg. No. 31,619

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21 AUG 2006

Patent Department
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100 Bayer Road
Pittsburgh, PA 15205-9741

In re Application of
FISCHER, Reiner, et al.
Application No.: 10/525,920
PCT No.: PCT/EP03/09103
Int. Filing Date: 18 August 2003
Priority Date: 28 August 2002
Attorney's Docket No.: CS8455/LeA 36,006
For: SUBSTITUTED SPIROCICLIC
KETOENOLS

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RT 8/23/06

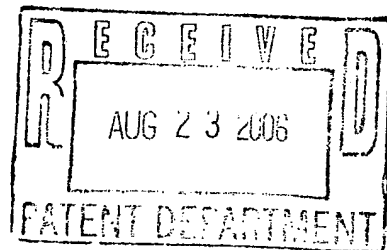
DATE 10/21/06 Response to
Petition

APPROVED

DECISION ON

REQUEST

UNDER 37 CFR 1.42



This decision responds to applicants' submission of a declaration of the inventors on 25 February 2005, containing an indication that joint inventor Christoph Erdelen is deceased. The declaration has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 18 August 2003, applicants filed international application PCT/EP03/09103, claiming a priority date of 28 August 2002. The deadline for submitting the basic national fee to prevent abandonment of the international application as to the United States expired at midnight of 28 February 2005.

On 25 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a declaration of the inventors.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 C.F.R. 1.42.

The declaration provided does not state that the heir, Angelika Lubos-Erdelen is the sole heir of the deceased joint inventor, Christoph Erdelen. If a legal representative has been or is required to be appointed under applicable law, such person must sign the declaration and indicate the relationship, e.g., "legal representative of inventor Christoph Erdelen." Otherwise, all heirs of Christoph Erdelen must sign the declaration and indicate the relationship, e.g., "sole heir of

Christoph Erdelen," or "legal representative of Christoph Erdelen." The indication that Angelika Lubos-Erdelen is an heir leaves open the possibility that there are other non-signing joint heirs. If Ms. Angelika Lubos-Erdelen is the sole heir and is signing the declaration as the legal representative of the estate of Christoph Erdelen, a statement to that effect will be sufficient.

CONCLUSION

For the above reasons, the request for status under 37 C.F.R. 1.42 is **REFUSED**.

Applicants are required to submit an oath or declaration in compliance with 37 C.F.R. 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 C.F.R. 1.136(a).** **FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

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